

	§	No. 21-03000-sgj11
Plaintiff,	§	
	§	
vs.	§	
	§	
HIGHLAND CAPITAL MANAGEMENT FUND	§	
ADVISORS, L.P., NEXPOINT ADVISORS, L.P.,	§	
HIGHLAND INCOME FUND, NEXPOINT	§	
STRATEGIC OPPORTUNITIES FUND,	§	
NEXPOINT CAPITAL, INC., AND CLO	§	
HOLDCO, LTD.,	§	
Defendants.	§	

**STIPULATION REGARDING AGREED (I) SCHEDULING ORDER AND
(II) ORDER FURTHER EXTENDING TEMPORARY RESTRAINING ORDER**

This stipulation (the “Stipulation”) is made and entered into by and between Highland Capital Management, L.P., as debtor-in-possession (the “Debtor”), on the one hand, and Highland Capital Management Fund Advisors, L.P. (“HCMFA”), NexPoint Advisors, L.P. (“NPA” and together with HCMFA, the “Advisors”), Highland Income Fund (“HIF”), NexPoint Strategic Opportunities Fund (“NSOF”), and NexPoint Capital, Inc. (“NCI” and together with HIF and NSOF, the “Funds,” and together with the Advisors, the “Defendants,” and the Defendants and the Debtor, together the “Parties”), on the other hand, by and through their respective undersigned counsel.

RECITALS

WHEREAS, on October 16, 2019 (the “Petition Date”), the Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the Bankruptcy Court for the District of Delaware, Case No. 19-12239 (CSS) (the “Delaware Court”);

WHEREAS, on December 4, 2019, the Delaware Court entered an order transferring venue of the Debtor’s bankruptcy case (the “Bankruptcy Case”) to this Court [Docket No. 186];

WHEREAS, on January 6, 2021, the Debtor commenced an adversary proceeding (the “Adversary Proceeding”) against Defendants by filing its complaint (the “Complaint”) [Docket No. 1]² (the “Complaint”);

WHEREAS, on January 8, 2021, the Court issued its *Order Regarding Adversary Proceedings Trial Setting and Alternative Scheduling Order* [Docket No. 12] (the “Alternative Scheduling Order”);

WHEREAS, on January 13, 2021, the Court entered that certain *Agreed Order Granting Defendant’s Motion for a Temporary Restraining Order Against Certain Entities Owned and/or Controlled by Mr. James Dondero* [Docket No. 20] (the “Consensual TRO”);

WHEREAS, on January 24, 2021, the Advisors and Funds moved to dismiss the Complaint [Docket No. 43] (the “Motion to Dismiss”);

WHEREAS, on January 26, 2021, the Debtor and CLO Holdco, Ltd. filed that certain *Notice of Settlement* pursuant to which the Debtor and CLO Holdco, Ltd. resolved their disputes and CLO Holdco, Ltd. was dismissed from this Adversary Proceeding [Docket No. 50];

WHEREAS, on January 26, 2021, the Court held an evidentiary hearing on the Debtor’s motion for a preliminary injunction (the “Preliminary Injunction Hearing”), and such hearing has been continued;

WHEREAS, on February 10, 2021, the Court entered that certain *Agreed Order Extending Temporary Straining Order* [Docket No. 64], pursuant to which the Consensual TRO was extended;

WHEREAS, on February 24, 2021, the Court entered that certain *Agreed Order Further Extending Temporary Straining Order* [Docket No. 76], pursuant to which the Consensual TRO

² Refers to the docket number maintained in the above-captioned Adversary Proceeding.

was further extended;

WHEREAS, on March 1, 2021, the Debtor filed its opposition to the Motion to Dismiss and a memorandum of law in support thereof [Docket Nos. 79, 80] (the “Debtor’s Opposition”);

WHEREAS, on March 17, 2021, the Defendants filed their reply to the Debtor’s Opposition [Docket No. 85];

WHEREAS, the Parties have conferred and desire to: (a) dispense with the completion of the Preliminary Injunction Hearing and move to the trial on the merits, (b) hold a single trial on all of the Debtor’s claims asserted in this Adversary Proceeding, including the claim for a permanent injunction, (c) enter into the proposed schedule specifically set forth below, and (d) continue the Consensual TRO until the Court enters an order determining the Debtor’s claim for permanent injunctive relief against the Defendants.

NOW, THEREFORE, it is hereby stipulated and agreed, and upon approval of this Stipulation by the Court, it shall be SO ORDERED:

1. The Parties agree to the following schedule (the “Proposed Joint Scheduling Order”):

<i>Proposed Joint Scheduling Order</i>	
<u>Event</u>	<u>Deadline</u>
1. Deadline to Answer Complaint	April 28, 2021
2. Service of Written Discovery Requests	May 3, 2021
3. Service of Written Responses to Discovery	June 1, 2021
4. Completion of Fact Discovery	June 9, 2021
5. Expert Disclosures	June 16, 2021
6. Completion of Expert Discovery	June 23, 2021
7. Exhibit and Witness Lists	June 28, 2021
8. Joint Pretrial Order and Proposed Findings of Fact and Conclusions of Law	July 1, 2021
9. Trial Docket Call	July 5, 2021

10. Oral Argument on Motion to Dismiss and Trial on the Merits	July 13 and 14, 2021, commencing at 9:30 a.m. Central Time each day
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2. If approved by the Court, the Proposed Joint Scheduling Order shall only be modified in a writing signed by the Parties or upon the entry of an order of the Court entered upon notice to the Parties.

3. Paragraph 4 of the Consensual TRO is deemed deleted and replaced in its entirety with the following new paragraph 4: “This Order shall remain in effect until the Court’s entry of an order determining the Debtor’s claim for a permanent injunction against the Defendants.”

4. The Court shall retain jurisdiction over all disputes arising out of or otherwise concerning the interpretation and enforcement of this Stipulation, subject to any objection to the Court’s jurisdiction or core jurisdiction and subject to any motion for the withdrawal of the reference, with respect to which all parties reserve their rights, if any.

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Dated: April 21, 2021.

MUNSCH HARDT KOPF & HARR, P.C.

/s/ Davor Rukavina

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